

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Michael Stefan COX, et al.

Appln. No.: 09/801,707

Confirmation No.: 5115

Filed: March 09, 2001



Group Art Unit: 2151

Examiner: Not yet assigned

For: IP/DATA TRAFFIC ALLOCATING METHOD TO MAINTAIN QOS

PETITION UNDER 37 CFR 1.47 (a)

Commissioner for Patents
Washington, D.C. 20231

Sir:


Applicants hereby petition to be permitted to proceed with the above application absent the signed Declaration and Power of Attorney by one of the multiple inventors. The grounds to the petition are fully set forth in the accompanying Declaration.

The inventor, Michael Stefan COX, has left the employ of the assignee, and has refused to sign.

The assignee will continue to attempt to obtain signature by Mr. Cox.

Please charge our Deposit Account 19-4880 for the petition fee of \$130.00 under 37 C.F.R. § 1.17(h). Please also charge any underpayment or credit any overpayment to Deposit Account No. 19-4880. A duplicate copy of this paper is attached.

Respectfully submitted,



David J. Cushing
Registration No. 28,703

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
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Date: November 13, 2001

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Attorney Docket Q63167

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Examiner:

DECLARATION

I, David J. Cushing, hereby declare that:

1. I am employed by Sughrue Mion, PLLC, counsel for Alcatel, the owner of the above application.
2. The three inventors of the above application are Michael Stefan Cox, Mickey Vucic and Bui Anh Jonathan Banh.
3. All three of the inventors were employed by Alcatel Australia Limited, a subsidiary of Alcatel, at the time the invention was made.
4. In early March, 2000 Alcatel authorized the filing of the above application, based on Australian Application No. 20795/00 filed March 10, 2000.
5. In October 2000, in preparation for filing the above application, copies of US Assignment and Declaration documents (hereinafter referred to as documents) were forwarded by internal mail to Michael Cox for his and his co-inventors signatures.
6. In November 2000, a staff member of the Intellectual Property Department contacted Mr. Cox to inquire as to whether the documents referred to in paragraph 5 had been signed. He advised that the documents had been misplaced and could not be located and requested fresh copies. Fresh copies of the documents were sent to Mr. Cox by internal mail on or about the same day.
7. After sending the fresh copies of the documents referred to in paragraph 6, the staff member telephoned Mr. Cox's office extension from time to time thereafter to inquire about the signature, but the calls were never answered and voice mail not returned.

7. On March 2, 2001, Mr. Cox left the employment of Alcatel Australia Limited. Later, the staff member of Alcatel's Intellectual Property Department contacted Mr. Cox by telephone at his home and was informed by Mr. Cox that he would sign the documents only if the Director of Human Resources of Alcatel Australia Limited (hereinafter referred to as the Director) contacted him personally.

8. The Director subsequently contacted Mr. Cox but agreement could not be reached over a matter not connected with the patent application, and Mr. Cox indicated that he would not sign the documents.

9. The co inventors Mr. Vucic and Mr. Bahn signed the documents on March 30, 2001 and April 3, 2001 respectively.

Mr. Cox's last known address is

Mr. Michael Cox
101 7th Avenue
Jannali, NSW 2226
Australia

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 11/13/01

By: 
David J. Cushing